

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - FLINT

DANIEL HORACEK #218347,

Plaintiff(s),

CASE NO.:4:04-CV-13006

vs.

HON. PAUL V. GADOLA  
MAG. JUDGE MICHAEL J. HLUCHANIUK

JOHN NEPH,

Defendant(s),

\_\_\_\_\_ /

**ORDER GRANTING DEFENDANT'S MOTION  
TO ALLOW THE TAKING OF PLAINTIFF'S  
DEPOSITION IN PRISON, (Dkt. #14)**

This matter is before the Court on the Defendant's Motion to Allow the Taking of Plaintiff's Deposition in Prison, (Dkt. #14) filed on February 22, 2008. In support of the motion, the Defendant states that as part of the discovery process in this matter, Defendant needs to take the deposition of the Plaintiff who is incarcerated. Defendant further states that the institution in which the Plaintiff is housed also requires a written court order to allow a deposition of a prisoner.

Pursuant to Rule 30(a)(2), Federal Rules of Civil Procedure, leave of court is required to take the deposition of an individual who is incarcerated and shall be granted to the extent consistent with the principles as outlined in Rule 26(b)(2).

Having considered the motion, the motion to allow the deposition of the prisoner is hereby **GRANTED**. The deposition of the Plaintiff shall take place at a date and time as agreed upon by the parties and correctional facility, but prior to the close of discovery.

**IT IS SO ORDERED.**

The parties are hereby informed that any objections to this order must be filed with the district court within ten days after service, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: February 26, 2008

s/ Michael J. Hluchaniuk

Michael J. Hluchaniuk  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on February 26, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: William G. Pierson, and I hereby certify that I have hand delivered/ mailed by United States Postal Service the paper to the following non-ECF participants: Daniel Horacek #218347, Florence Crane Correctional Facility, 38 Fourth St., Coldwater, MI 49036.

s/ James P. Peltier

James P. Peltier  
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